

CHAPTER 6 VEHICLE IMPOUNDMENT

[Ch 6 as appeared before 6/27/79 rescinded]
[Prior to 4/20/88, see Public Safety Department[680] Ch 6]

661—6.1(17A,321) Vehicle impoundment. The patrol division and other peace officer members of the department may impound any vehicle determined to be “abandoned” as defined in Iowa Code section 321.89(1) “b,” provided that:

1. The officer shall first attempt to determine the owner through department of transportation records and request communications division advise an owner found thereby that the vehicle must be moved within a reasonable time or it will be impounded, and
2. Either the owner cannot be found or the owner fails to remove the vehicle within a reasonable time.

661—6.2(17A,321) Vehicles which may be impounded immediately.

6.2(1) Vehicles which an officer has reason to believe are wrongfully possessed by the person then having control of such vehicles or on which the vehicle identification number or the identification numbers of any component part have been altered or defaced, or on which an attempt to alter or deface has been made.

6.2(2) Vehicles which are involved in an accident when immediate impoundment is necessary:

- a. To preserve evidence which will be used in an administrative or judicial proceeding; or
- b. To protect the vehicle from theft or further damage when the legal custodian is unavailable or incapable to give consent to such impoundment; or
- c. To prevent further accidents when the vehicle is so situated as to appear to constitute a hazard to traffic.

6.2(3) Vehicles which an officer has reason to believe are being used to transport contraband.

6.2(4) Vehicles involved in a person’s death when the medical examiner or a peace officer determines:

- a. That seizure is necessary to secure evidence needed in the investigation of the cause and manner of death.
- b. That circumstances indicate the vehicle may be removed or tampered with before written authorization for its impoundment can be obtained.
- c. That the vehicle is situated on a public highway in such a manner that it may constitute a hazard to traffic.

6.2(5) Vehicles under the control of a person at the time of arrest:

- a. If the arrested person’s vehicle reasonably appears to a peace officer to constitute a traffic hazard if it remains where it is situated at the time of arrest and the arrested person is unwilling or unable to have it moved; or
- b. To preserve evidence which will be used in an administrative or judicial proceeding; or
- c. To protect the vehicle from theft or further damage when the legal custodian is unavailable or incapable to give consent to such impoundment.

6.2(6) Vehicles positioned upon a public highway in such a location as to indicate that they constitute a hazard to traffic.

661—6.3(17A,321) Vehicles which need not be impounded immediately.

6.3(1) If a vehicle is unattended, an officer shall tag it. A record is kept by the officer at the district to which the officer is assigned. After the period of time prescribed in Iowa Code section 321.89, the unattended vehicle shall be declared an abandoned vehicle.

6.3(2) If the vehicle is thought to be abandoned, the officer shall attempt to determine the owner through department of transportation records, and request that the communications division advise the

owner that the vehicle must be moved within a reasonable time or it will be impounded. If the owner cannot be contacted, or if the owner does not remove the vehicle, the vehicle may be impounded.

661—6.4(17A,321) Impoundment procedure.

6.4(1) Prior to towing an impounded vehicle, the officer shall:

- a. Request that a tow truck be dispatched to remove the vehicle.
- b. Complete a vehicle tow-in and recovery report which includes the following information:
 - (1) Reason for towing;
 - (2) The license number and description of the vehicle including its condition at the time of impoundment;
 - (3) Vehicle identification number and registration information, when readily accessible.
- c. Instruct the towing service to tow the vehicle to a designated location, which in the case of an abandoned vehicle shall be the towing service's storage area.

6.4(2) Within 24 hours of towing an impounded vehicle, the officer shall:

- a. Complete an inventory of all property in the vehicle and a notation of any parts of the vehicle which appear to be missing or damaged. The inventory shall include a list of the contents of each container in the vehicle. Each container shall be opened unless the contents of a particular container are evident from its exterior. If keys, a locksmith, or other means of access are not reasonably available to the officer, the officer is authorized to break locks to gain access to the vehicle and its locked compartments. The inventory is a record which is intended for use in ensuring the safe return of the lawful possessor's property and resolving questions regarding the condition or contents of the vehicle.
- b. Add to the vehicle tow-in and recovery report information indicating the circumstances of recovery of the vehicle and notification of the owner if the vehicle is believed to be stolen or operated without the consent of the owner.

This rule is intended to implement Iowa Code sections 80.9(2) "a" and 321.89.

661—6.5(17A,321) Abandoned vehicles. If the vehicle is impounded pursuant to rule 661—6.1(17A,321):

6.5(1) The district officer in charge of abandoned vehicles shall notify, within 20 days of impoundment, by certified mail, the last known registered owner of the vehicle and all lienholders of record, addressed to their last known address of record, that the abandoned vehicle has been impounded. Such notice shall state:

- a. The location of the vehicle.
- b. That the person or persons notified have the right to reclaim the vehicle within 21 days of notice upon payment of all towing, preservation and storage charges resulting from impoundment.
- c. That failure to reclaim the vehicle within 21 days will constitute a waiver of all right, title, claim and interest in the vehicle and will also constitute the giving of consent to sale or disposal of the vehicle.

d. That a written objection to the impoundment may be filed in accordance with subrule 6.5(3).

6.5(2) When the district officer in charge of abandoned vehicles is unable to determine the identity or address of the last known registered owner or of any lienholders of record, the officer shall cause to be published once in a newspaper of general circulation in the area where the abandoned vehicle was found, a notice containing all the information otherwise required by subrule 6.5(1).

6.5(3) Registered owners or lienholders of record may, within the 21-day reclamation period, submit a written objection to the initial impoundment or to any procedure followed by the patrol officer or towing agent. Such objection shall contain an explanation of why the objector believes the impoundment was not authorized by law. When an objection is received by the district officer in charge of abandoned vehicles, such officer shall:

- a. Immediately consider the objection and make an initial decision as to the legality of the impoundment,

b. Immediately thereafter notify the objector of the decision. Such notice shall state either:

- (1) That the impoundment was authorized by law, and explain the basis of such decision, or
- (2) That the impoundment was not authorized by law, that the vehicle will be released to the objector upon presentation of proof of ownership at district headquarters, and that no towing or storage fees will be assessed for 21 days, and

c. File a copy of the notice required by subrule 6.5(3), paragraph “*b*,” with other documents kept in connection with the impoundment.

6.5(4) The registered owner and any lienholders of record have 21 days in which to reclaim the vehicle after mailing or date of publication of notice as prescribed in subrules 6.5(1) and 6.5(2), except where written objection to impoundment has been made in accordance with subrule 6.5(3), in which case the 21-day period shall begin when notice of the district officer’s response to the objection is mailed. An additional 14 days will be allowed if the owner or any lienholder submits a written request for an extension of the 21-day reclamation period.

6.5(5) If the reclamation period has expired, and either the registered owner or any lienholder of record has made no written objection to the impoundment, or an objection has been filed and the district officer has determined that the impoundment was authorized by law, then all rights of the owner or of any lienholders of record with regard to the impounded vehicle are forfeited and the vehicle will be either:

a. Sold for use upon the highway after an inspection and certification that it is safe for such use in accordance with Iowa Code section 321.238; or

b. Sold for junk, demolished, and sold as scrap, or

c. Sold as provided in Iowa Code section 321.88 with a restricted certificate of title and not for use on the highways.

6.5(6) When the vehicle is sold:

a. The circumstances of the sale shall be entered in appropriate records kept by the district officer in charge of abandoned vehicles.

b. The required department of transportation forms shall be completed by the officer, given to the purchaser, and mailed to the abandoned vehicle section of the motor vehicle division of the department of transportation. The motor vehicle division shall then take action regarding the funds collected or expended.

6.5(7) If the registered owner or any lienholders of record have filed written objection to the impoundment in accordance with subrule 6.5(3) and the district officer has determined that the impoundment was not authorized by law, towing and storage fees will not be assessed unless the objector, after receipt of notice of such determination, fails to reclaim the vehicle within the reclamation period provided in subrule 6.5(4). If the vehicle is not reclaimed during the reclamation period, said fees shall be deemed “abandoned,” and subject to forfeiture and sale if not claimed within 60 days of receipt of notice from the district officer pursuant to subrule 5.4(3).

661—6.6(321) Scope. Nothing in this chapter shall be construed to limit an officer’s authority to seize or search an individual, vehicle, or location upon probable cause or as otherwise justified by law.

These rules are intended to implement Iowa Code sections 80.9(2) “*a*” and 321.89 and *Florida v. Wells*, 110 Sup. Ct. 1632.

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